

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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In the Matter of )

Amendment of Parts 1, 22, 24, 27, 74, 80, )  
90, 95, and 101 To Establish Uniform )  
License Renewal, Discontinuance of )  
Operation, and Geographic Partitioning and )  
Spectrum Disaggregation Rules and )  
Policies for Certain Wireless Radio )  
Services )

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WT Docket No. 10-112

**REPLY COMMENTS OF SPACE DATA CORPORATION**

Space Data Corporation (“Space Data”) replies to comments filed in response to the Further Notice of Proposed Rulemaking examining potential construction obligations of certain wireless licenses beyond their the initial term.<sup>1</sup> Space Data agrees with commenters that the Commission should use incentives to encourage investment in and deployment of wireless networks to rural areas beyond a licensee’s initial license term, rather than onerous construction mandates that will distort investment and harm customers. If, however, the Commission adopts such mandates, they should apply only prospectively to new licenses and exclude licenses with narrow bandwidths.

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<sup>1</sup> *Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 To Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services*, Second Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 10-112; FCC 17-105 (rel. Aug. 3, 2017).

**I. RATHER THAN IMPOSE NEW BUILDOUT MANDATES, THE COMMISSION SHOULD USE INCENTIVES TO PROMOTE WIRELESS NETWORK DEPLOYMENT BEYOND A LICENSE’S INITIAL TERM**

The record overwhelmingly demonstrates that applying new construction obligations to geographic area wireless licenses after their initial term would not facilitate additional deployment to rural areas as the Commission intends, or otherwise serve the public interest. Space Data strongly agrees with the majority of commenters that imposing new buildout obligations will needlessly distort investment and force the uneconomic deployment of wireless networks.<sup>2</sup>

The construction of wireless networks is highly resource-intensive and wireless licensees – particularly smaller providers – have limited budgets. Deployments must be economic and efficient in order to ensure a sustainable business and the provision of service over the long term. Mandates forcing additional buildouts after the initial license term would distort investment by requiring providers to concentrate their resources on building duplicative, overlapping networks in markets where multiple operators may not be sustainable. Providers would be unable to invest in network upgrades or other improvements to meet demand, which in turn could harm customers and hamper the providers’ ability to compete.

Moreover, new construction mandates could significantly constrain secondary market transactions. Potential lessees and buyers of spectrum would have to consider the new requirements when establishing the value of the spectrum, and the new requirements could well deter them from entering into transactions at all. This is particularly true where lessees and buyers are not other wireless service providers. For example, a number of utilities have leased and/or acquired narrowband PCS spectrum from Space Data for purposes of smart grid and other

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<sup>2</sup> See, e.g., American Messaging Services, LLC (“American Messaging”) Comments at 3-4; CTIA Comments at 12-15; Enterprise Wireless Alliance (“EWA”) Comments at 3-4; Sensus USA Inc. and Sensus Spectrum LLC (“Sensus”) Comments at 5; Verizon Comments at 10-15.

critical infrastructure applications. Similar companies looking for spectrum on the secondary market may be unwilling or unable to shoulder the new mandates, thus limiting or preventing critical projects.

The Commission should instead focus on incentive-based methods to help facilitate the deployment of wireless services in rural areas. As other commenters note, the Commission currently is considering how to promote access to mobile broadband services in rural areas in the Mobility Fund Phase II auction proceeding, which would make available \$4.53 billion in universal service support for the deployment of 4G services in rural areas.<sup>3</sup> Space Data agrees with commenters that providing incentives is a much better, market-based approach than imposing additional mandates.<sup>4</sup> Examples of such incentives include extending the license term of providers that voluntarily meet additional construction requirements beyond their initial license term, with rural areas being given more weight.<sup>5</sup>

## **II. EXISTING LICENSES AND NARROWBAND LICENSES SHOULD BE EXCLUDED FROM ANY NEW BUILDOUT MANDATES**

To the extent the Commission adopts new buildout mandates that would apply after a wireless license's initial term, the Commission should exclude certain types of licenses from those new requirements. In particular, existing licenses should not be subject to any new buildout mandates.<sup>6</sup> Parties rely on the rules in effect at that time when they value the spectrum in auctions and on the secondary market. Applying the rules only prospectively to new licenses

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<sup>3</sup> See, e.g., American Messaging Comments at 5; CTIA Comments at 11; Verizon Comments at 5-7.

<sup>4</sup> See, e.g., American Messaging Comments at 6; CTIA Comments at 15-17; Sensus Comments at 2-4; Verizon Comments at 3-7.

<sup>5</sup> Space Data agrees that license terms should be extended at least an additional five years if a licensee satisfies the Commission's enhanced construction benchmarks. See, e.g., CTIA Comments at 16. If a licensee fails to meet the benchmark, it should be subject to no other penalties other than not receiving the additional extension of the license term.

<sup>6</sup> See, e.g., American Messaging Comments at 6; Blooston Licensees Comments at 3-4; CTIA Comments at 17-18.

would provide some certainty and allow parties to better consider the cost of the ongoing construction requirements in their spectrum valuations and decisions to acquire spectrum.<sup>7</sup>

In addition, the Commission should adopt the proposal of the Enterprise Wireless Alliance (“EWA”) to exempt geographic area licenses that are allocated in blocks of 1 MHz or less from any new mandates.<sup>8</sup> Space Data, which holds hundreds of narrowband PCS licenses, agrees that there are fundamental differences between licenses with narrow and wide bandwidths.<sup>9</sup> Licenses with narrow bandwidths simply do not have the same flexibility or options to support the range of mobile and fixed services that licenses with wider bandwidths can support, including broadband. A one-size-fits-all approach is simply not appropriate in this case.

Moreover, the narrowband service market has changed dramatically from mass market consumer-oriented paging and messaging services to one focused on M2M telemetry, tracking, and messaging services for limited enterprise and public safety uses. Narrowband operators also now primarily serve individual customers within limited areas, such as hospitals. Many narrowband licensees serving these niche markets do not have the same scale and financial resources to construct duplicative networks where demand may not exist.<sup>10</sup> Requiring them to potentially forfeit some or all of their spectrum for failure to meet the enhanced construction requirements would disrupt services and punish existing customers, neither of which would serve the public interest or the Commission’s goal of extending wireless services in unserved and underserved areas.

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<sup>7</sup> As Sensus notes, retroactively applying new rules to existing licenses also raises legal and policy concerns. Sensus Comments at 3.

<sup>8</sup> EWA Comments at 2-5.

<sup>9</sup> See, e.g., American Messaging Comments at 2-5; EWA Comments at 2-5; Sensus Comments at 4-5.

<sup>10</sup> Narrowband licensees should still be allowed to voluntarily opt in to any incentives, such as longer license terms, the Commission adopts to promote the deployment of wireless networks beyond a license’s initial term.

### **III. CONCLUSION**

The Commission should use incentives rather than onerous and uneconomical construction mandates to encourage the build out of wireless networks after a license's initial term. If, however, the Commission does adopt such mandates, it should exclude existing licenses and licenses with narrow bandwidths from the new requirements.

Respectfully submitted,

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